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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BRET ROBERT OSBORN, MICHAEL
PFAFF, KATHLEEN ANN PFAFF AND
MARTY GAYLE OSBORN, on behalf of
themselves, the general public, and all
others similarly situated,

Plaintiffs,

vs.

EMC CORPORATION, and Does 1
through 50,

Defendants.

) Case No. C 04-00336 JSW

) CLASS AND REPRESENTATIVE ACTION

) PLAINTIFFS' NOTICE OF MOTION
) AND MOTION TO AMEND
) COMPLAINT

BY FAX

) Hearing Date: July 30, 2004

) Hearing Time: 9:00 a.m.

) Courtroom: 2 17th Floor

MOTION TO AMEND COMPLAINT

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NOTICE OF MOTION & MOTION

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on July 30, 2004 at 9:00 a.m., or as soon thereafter as the matter may be heard in Department 2 at 450 Golden Gate Avenue, San Francisco, CA 94102, California, Plaintiff will move and hereby does move, this court, for an order granting Plaintiff's motion to file a first amended complaint, a copy of which is attached hereto as Exhibit A. The purpose of this amended complaint is to add new legal theories based upon the newly enacted Private Attorney General Act under CAL. LAB. CODE § 2699 and to delete the \$75,000 limit on named Plaintiffs' claims. This motion is submitted with the accompanying Memorandum of Points and Authorities and Declaration of Micheline N. Fairbank, the pleadings, papers and records in this action, and on such oral and documentary evidence as may be presented at the hearing of this Motion.

Dated: April 28, 2004.

Respectfully submitted,
THIERMAN LAW FIRM

By: Micheline N. Fairbank
Mark R. Thierman
Micheline N. Fairbank
Attorneys for Plaintiffs